


Mine Cleanup and Abatement Order

Responsible Party:	Bailey Minerals Corporation (including J.W. Weightman, Helen Weightman and William B. Wheightman)
Parcel Controlled:	APNs 018-200-013-000, 018-200-014-000, 018-200-015-000, 018-200-016-000, 018-200-017-000, 018-200-018-000
Maps:	 <p style="text-align: center;">Attachment A – Parcel Map with Mine Locations</p>
Waste Located on the Site:	The mine sites on the properties listed above include West End Mine, Manzanita, Central, Cherry Hill and Empire Mines, and several milling facilities. These mines and facilities include mine cuts, waste rock, tailings, mill waste, erodable mined slopes, and sediment within drainage swales, ditches, and a tributary to Sulphur Creek.
Discharge:	5C2 Report found mine tailings, and waste rock at and around the mines (5C2 Report , Pages 2-11, 2-14 and 2-15). This report also found evidence of erosion of these material into Sulfur Creek. Also, the report found slope stability problems associated with the mines 5C2 Report , Pages 2-13 and 2-15). Mercury mobilized by storm water runoff, slope failure, or water rock interaction from mine wastes at West End Mine, Manzanita, Central, Cherry Hill and Empire Mines, and several milling facilities either entered Sulphur Creek directly or entered unnamed intermittent tributary to Sulphur Creek.
Ability to Control:	Bailey Minerals Corporation owned and leased the properties and mining claims associated with the listed properties, and had the ability to cleanup and abate the discharge of mine waste from the mines. Also, evidence demonstrates that Bailey Minerals mined the property in early 1970's increasing erosion at the site. This includes large land disturbance and partial damming of Sulphur Creek.

<p>Legal Theory Holding Responsible Party Accountable</p>	<p>Bailey Minerals is subject to the Order because Bailey Minerals held title to, and lease interests in, the property during the time when the waste piles were discharging mercury and other pollutants to surface waters, which caused exceedances of water quality objectives. Evidence that Bailey Minerals held a property interests for the relevant parcels can be found in the documents referenced in Attachment B, which are in the files of the Central Valley Water Board. The waste piles are still present on the property.</p> <p>California Water Code (CWC) section 13304 authorizes the Regional Water Boards to issue cleanup and abatement orders to any person who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance</p> <p>Bailey Minerals, by leasing portions and/or owning the property where mining waste piles were present and by creating their own waste piles, took responsibility for appropriately managing the discharges from these waste. As these waste piles were eroding into surface waters during the time Bailey Minerals' held property interests in the site, Bailey Minerals qualifies a person who has, "caused or permitted waste to be discharged into waters of the state."</p> <p>Studies conducted during the development of a TMDL for the Cache Creek Watershed, including the CalFed 5C2 Report, determined that the erosion of materials from the waste piles present on the parcels that Bailey Minerals controlled contributed to a condition of pollution, defined under CWC section as an alteration of the quality of waters of the state to a degree which unreasonably affects the waters for beneficial uses.</p> <p>Bailey Minerals, unlike some of the other dischargers associated with the site, actively mined the area and contributed to the pollution issues currently found at the site. Liability for a cleanup under CWC section 13304 attaches to Bailey Minerals by virtue of the fact that they created some of the waste piles that are causing contamination issues at the site.</p> <p>In addition to the initial release of pollutants into the environment (for which Bailey Minerals is partially responsible for), the State Water Resources Control Board (State Board) has determined that the passive release of pollutants is considered a "discharge" of waste for the purposes of determining liability under CWC section 13304. (State Board Order No. WQ 86-2, In the Matter of the Petition of Zoecon Corporation; State Board Order No. WQ 92-13, In the Matter of the Petitions of Wenwest, Inc., et al.) The scope of Bailey Minerals' property interests indicates that Bailey Minerals had some degree of ability to control the discharge of the legacy wastes as well as the wastes that they created, but failed to do so.</p> <p>The State Board has ruled that liability for a cleanup ordered under section 13304 is joint and several. (State Board Order No. WQ 90-2, Petition of Union Oil Company.) However, the State Board has declined to apportion liability among responsible parties, leaving that determination to the parties themselves. It is the responsibility of Bailey Minerals to determine their responsibility relative to the other named dischargers, and to cooperatively address the tasks required</p>
--	--

	<p>of the responsible parties in the Order.</p> <p>The site's unique geophysical characteristics made it attractive to Bailey Minerals' natural resource exploration and extraction – but these activities, when carried out on this former mine site, carries potential liabilities as well as potential rewards. Bailey Minerals should not be allowed to disclaim their responsibility for managing and remediating the wastes that they created, and the legacy wastes that they had the ability to control.</p>
Evidence in the Regional Water Board File	Attachment B contains the documents showing that Bailey Minerals, owned, leased and mined the property.
Photographic evidence pertaining to this parcel (if available)	Attachment C photographs showing mining, and present conditions of some mined area and waste piles.